

REMARKS

Claims 1 to 10 were pending in the application at the time of examination. Claims 1 to 10 stand rejected as anticipated.

Applicants note that the assignee for the above application has transferred responsibility for the application to the undersigned attorney. Please direct all further correspondence in the above application to the undersigned attorney. A revocation of attorney and appointment of new attorney is being filed under separate cover.

Applicants have amended the description to correct typographical and grammatical errors.

Claims 1, 4, 7 and 10 are amended. Applicants note that no 35 U.S.C. § 112 rejections were given of the claims. Accordingly, the Examiner considered the claims to satisfy the § 112 requirements. Thus, the amendments to the claims correct informalities only and do not affect the patentability of the claims.

Claims 1 to 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,622,246 B1, hereinafter referred to as Biondi. In the rejection, the Examiner copied the body of Claim 1 and then cited to Column 4, line 61 to Column 5, line 29 in Biondi. No specific indication or guidance was given as to what parts of the process described in this section of Biondi were considered to teach exactly what is recited in Claim 1.

In Column 4, line 61 to Column 5, line 29, Biondi taught:

In step S230, a determination is made whether the first firmware space 544 is erased. If the first firmware space is erased, control jumps to step S260. Otherwise, control continues to step S240. In step S240, if the first firmware space 544 is not erased, the validity of the data of the first firmware space 544 is checked. If the data of the first firmware space 544 is valid, control continues to step S250. Otherwise, control jumps to step S260. In step S250, because the firmware in the first firmware space is valid and present, the firmware in the first firmware space 544 is executed.

If the first firmware space 546 is erased or that the data in the first firmware space 546 is not valid, step S260 is performed. In

step S260, a determination is made whether the second firmware space 546 is erased. If the second firmware space 546 is not erased, control continues to step S270. Otherwise, control jumps to step S290.

In step S270, if the second firmware space is not erased, a determination is made whether the data of the second firmware space 546 is valid. If the data in the second firmware space 546 is valid, control continues to step S280. Otherwise, control jumps to step S290.

In step S280, because the data in the second firmware space 546 is both present and valid, the firmware in the second firmware space 546 is executed.

If the second firmware space 546 is erased or if the data of the second firmware space 546 is not valid, step S290 is performed. In step S290, an error message is displayed or output. The output error message may take any form, including a simple blinking light or detailed textual message describing the problem. The error message routine may also accommodate other functions, such as a simple download routine to accommodate download of new firmware programs. Control then continues to step S295, where the program initialization method ends.

Nowhere in this section is "receiving a message" described or suggested. Nowhere in this section is "decoding said message" described or suggested. The word "message" only appears with respect to step S290 that is unrelated to the operations with respect to a message as recited in Claim 1. This section also fails to describe or suggest "an embedded device."

To support an anticipation rejection, the MPEP requires:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." . . . "The identical invention must be shown in as complete detail as is contained in the . . . claim."

MPEP § 2131, Eighth Ed., Rev. 2, p. 2100-73, (May 2004).

Since Biondi fails to teach or describe either receiving a message or decoding a message as recited in Claim 1, Biondi fails to show "The identical invention . . . in as complete detail as is contained in the . . . claim." Therefore, according

to the MPEP, Biondi fails to anticipate Claim 1. Applicants request reconsideration and withdrawal of the anticipation rejection of Claim 1.

Claims 2 and 3 depend from Claim 1 and so distinguish over Biondi for at least the same reasons as Claim 1. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 2 and 3.

With respect to the anticipation rejection of Claim 4, the Examiner gave the identical rejection as discussed above for Claim 1. Claim 4 is the means for performing the method of Claim 1 and so distinguishes over Biondi for the same reasons as Claim 1, and the remarks concerning Claim 1 are incorporated herein by reference. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 4.

Claims 5 and 6 depend from Claim 4 and so distinguish over Biondi for at least the same reasons as Claim 4. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 5 and 6.

With respect to the anticipation rejection of Claim 7, Claim 7 includes limitations equivalent to those discussed above with respect to Claim 1 and the Examiner cited the same portion of Biondi as teaching these limitations. Therefore, the above remarks with respect to Claim 1 are applicable to Claim 7 and are incorporated herein by reference. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 7.

Claims 8 and 9 depend from Claim 7 and so distinguish over Biondi for at least the same reasons as Claim 7. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 8 and 9.

With respect to the anticipation rejection of Claim 10, the Examiner again failed to cite any teaching of "examining a message . . . to determine an execution mode." As noted with respect to Claim 1 and incorporated herein by reference, the

process cited by the Examiner in Biondi fails to show such an operation. Therefore, Biondi fails to anticipate Claim 10. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 10.

Claims 1 to 10 remain in the application. Claims 1, 4, 7, and 10 have been amended. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING


I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 21, 2004.



Attorney for Applicant(s)

October 21, 2004
Date of Signature

Respectfully submitted,



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